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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

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9 DARREN ROY MACK,

Case No. 3:18-cv-00324-RCJ-VPC

10 Petitioner,

ORDER

11 v.

12 RENEE BAKER, et al.,

13 Respondents.

14 Petitioner Darren Roy Mack has submitted a *pro se* petition for writ of habeas  
15 corpus pursuant to 28 U.S.C. § 2254 (ECF No. 1-1). As he has paid the filing fee, his  
16 two applications to proceed *in forma pauperis* are denied as moot. The court has  
17 reviewed the petition pursuant to Habeas Rule 4, and it shall be docketed and served  
18 on respondents.

19 A petition for federal habeas corpus should include all claims for relief of which  
20 petitioner is aware. If petitioner fails to include such a claim in his petition, he may be  
21 forever barred from seeking federal habeas relief upon that claim. See 28 U.S.C.  
22 §2254(b) (successive petitions). If petitioner is aware of any claim not included in his  
23 petition, he should notify the court of that as soon as possible, perhaps by means of a  
24 motion to amend his petition to add the claim.  
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26 **IT IS THEREFORE ORDERED** that petitioner's two application to proceed *in*  
27 *forma pauperis* (ECF Nos. 1 and 3) are both **DENIED** as moot.  
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1           **IT IS FURTHER ORDERED** that the Clerk shall file and **ELECTRONICALLY**  
2 **SERVE** the petition (ECF No. 1-1) on the respondents.

3           **IT IS FURTHER ORDERED** that the Clerk shall add Adam Paul Laxalt, Nevada  
4 Attorney General, as counsel for respondents.

5           **IT IS FURTHER ORDERED** that respondents shall file a response to the  
6 amended petition, including potentially by motion to dismiss, within **ninety (90) days** of  
7 service of the petition, with any requests for relief by petitioner by motion otherwise  
8 being subject to the normal briefing schedule under the local rules. Any response filed  
9 shall comply with the remaining provisions below, which are entered pursuant to  
10 Habeas Rule 5.  
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12           **IT IS FURTHER ORDERED** that any procedural defenses raised by respondents  
13 in this case shall be raised together in a single consolidated motion to dismiss. In other  
14 words, the court does not wish to address any procedural defenses raised herein either  
15 *in seriatum* fashion in multiple successive motions to dismiss or embedded in the  
16 answer. Procedural defenses omitted from such motion to dismiss will be subject to  
17 potential waiver. Respondents shall not file a response in this case that consolidates  
18 their procedural defenses, if any, with their response on the merits, except pursuant to  
19 28 U.S.C. § 2254(b)(2) as to any unexhausted claims clearly lacking merit. If  
20 respondents do seek dismissal of unexhausted claims under § 2254(b)(2): (a) they shall  
21 do so within the single motion to dismiss not in the answer; and (b) they shall  
22 specifically direct their argument to the standard for dismissal under § 2254(b)(2) set  
23 forth in *Cassett v. Stewart*, 406 F.3d 614, 623-24 (9th Cir. 2005). In short, no  
24 procedural defenses, including exhaustion, shall be included with the merits in an  
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1 answer. All procedural defenses, including exhaustion, instead must be raised by  
2 motion to dismiss.

3 **IT IS FURTHER ORDERED** that, in any answer filed on the merits, respondents  
4 shall specifically cite to and address the applicable state court written decision and state  
5 court record materials, if any, regarding each claim within the response as to that claim.  
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7 **IT IS FURTHER ORDERED** that petitioner shall have **forty-five (45) days** from  
8 service of the answer, motion to dismiss, or other response to file a reply or opposition,  
9 with any other requests for relief by respondents by motion otherwise being subject to  
10 the normal briefing schedule under the local rules.

11 **IT IS FURTHER ORDERED** that any additional state court record exhibits filed  
12 herein by either petitioner or respondents shall be filed with a separate index of exhibits  
13 identifying the exhibits by number. The CM/ECF attachments that are filed further shall  
14 be identified by the number of the exhibit in the attachment.  
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16 **IT IS FURTHER ORDERED** that the parties SHALL SEND courtesy copies of all  
17 exhibits in this case to the Clerk of Court, 400 S. Virginia St., Reno, NV, 89501, directed  
18 to the attention of "Staff Attorney" on the outside of the mailing address label.  
19 Additionally, in the future, all parties shall provide courtesy copies of any additional  
20 exhibits submitted to the court in this case, in the manner described above.  
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23 DATED: September 25, 2018.

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26 ROBERT C. JONES  
27 UNITED STATES DISTRICT JUDGE  
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